

SPECIAL CIVIL APPLICATION NO. 10491 OF 1995

Coram: B.C.Patel & R.M.Doshit, JJ.
(13th December 1995)

Order

The publication of the award made by the Special Land Acquisition Officer is challenged by the petitioner on the ground that the same was not declared within the time-limit prescribed under Section 11-A of the Land Acquisition Act, 1894 (hereinafter referred to as the Act) and the adjoining land being available for housing schemes or the reserved lands in the Ahmedabad Urban Development Authority for housing scheme nearby, these lands ought to have been acquired for housing purpose.

2. The Notification under Section 4 of the Act was published in the Official Gazette on or about 14th January 1993. The objections of the objectors were considered in accordance with law and the notification under Section 6 of the Act was published in the Official Gazette on 15th April 1993. The said notification was published in vernacular daily 'SAMBHAV' on 18th April 1993 and 'YOUNG LEADER' in Hindi on 17th April 1994. It is also clear from the award that the said notification was published on the Public Notice Board at the village on 15th April 1993.

3. Learned Advocate Mr. Shah has contended that the notification was published in the Gazette on 15th April 1993 while the award was published on 17th April 1995 and therefore it is made after a period of two years from the date of publication of the declaration under section 6 of the Act. In the Act, so far as the prescription of time is concerned, the same is provided in Section 6 as well as in Section 11 thereof. According to the language of Section 6, no declaration in respect of any particular land covered by a notification under Section 4 Sub-Section (1) published after the commencement of the Land Acquisition (Amendment) Act, 1984, shall be valid if it is made after the expiry of one year from the date of the publication of the notification under Section 4 of the Act. Thus, the time given to the authority for publication of notification under Section 6 is one year from the date of notification under Section 4. Section 4

(1) reads as under:

" 4 (1) Whenever it appears to the appropriate Government that land in any locality is needed or is likely to be needed for any public purpose, or for a company, a notification to that effect shall be published in the Official Gazette, and in two daily newspapers circulating in that locality of which at least one shall be in the regional language and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality (the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the notification)."

4. Section 6 (2) of the Act reads as under:

"6 (2) Every declaration shall be published in the Official Gazette, and in two daily newspapers circulating in the locality in which the land is situate of which at least one shall be in the regional language, and the Collector shall cause public notice of the substance of such declaration to be given at convenient places in the said locality (the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the declaration), and such declaration shall state the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected."

5. So far as notification under Section 6 is concerned, the Apex Court in case of KRISHI UTPADAN MANDI SAMITI v. MAKRAND SINGH reported in (1995) 2 Supreme Court Cases at page 497 has held that, limitation must be computed from the last of the dates of publication of notification under Section 4 (1) to the date of publication of declaration under Section 6 in the Official Gazette and not in the newspaper. In that case, the last date of publication of the notification under Section 4 was required to be taken into consideration for the purpose of calculating the period of three years from the date of publication of the declaration under Section

6 in the Official Gazette. In the instant case, the time-limit is required to be calculated in view of Section 6 (2) of the Act, and it is clear that the same must be considered from the last of the dates of such publication and giving of such public notice as the last date of publication of the declaration for the purpose of making an award under Section 11 of the Act. From the facts, it is clear that the award was made on 17th April 1995 and the last date of publication of the notification in vernacular daily 'SAMBHAV' was on 18th April 1993, and hence it is within the time and therefore there is no merit.

6. The learned Advocate submitted that, since land was available for housing purpose or is reserved in the adjoining area under the scheme of Ahmedabad Urban Development Authority, these lands ought to have been acquired for public purpose, namely, for the Housing Board for construction of houses. If the objectors have raised their objections under Section 5-A of the Act and if the same have been considered by the Competent Authority, in absence of mala fides, ordinarily, this Court would not consider the availability of other lands. No such allegations are made. Apart from that, the objectors were heard and thereafter the notification was published on 15th April 1993. If that was the ground, the same ought to have been challenged after 15th April 1993, but after the award, the same cannot be heard as there is delay in making submissions before the court. We would not like to entertain this petition on this ground in the facts and circumstances narrated above. This application therefore stands rejected. The learned Advocate made a request in the beginning to delete Para-V of the petition. Permission granted.

(B.C. Patel, J.)

13th December 1995 (R.M.Doshit, J.)